

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
ETHELIA JUNE MORRIS,) CASE NO. 03-66040 JPK
) Chapter 7
Debtor.)

ORDER REGARDING TRUSTEE'S MOTION FOR
RULE TO SHOW CAUSE ORDER ("MOTION")

The Motion, filed on October 30, 2007 by Trustee David DuBois, requests that the Court find the debtor in contempt for violation of an agreed order entered by the Court on August 18, 2006. The gravamen of the Motion is that the debtor has failed to allow the realtor engaged by the Trustee for sale of real property to access that real property for the purposes of "showing" the property to prospective purchasers. A hearing on the Motion was held on February 22, 2008. At the hearing, the debtor appeared in person and by counsel Patricia Beecher; the Chapter 7 Trustee David R. DuBois appeared personally.

Unfortunately, the realtor engaged by the Trustee did not appear at the February 22, 2008 hearing. Ms. Morris stated in essence that she had sought to cooperate with communications from the realtor to show her home, but that telephone calls to the realtor to arrange for showings had not been returned by the realtor. The Trustee therefore failed to establish any violation of the August 18, 2006 order which would allow the Court to impose any remedy upon the debtor with respect to contempt of that order.

The Trustee's attempts to determine whether the debtor's residence can be sold in a manner which benefits the estate has been the subject of a long and arduous process. Ms. Morris obviously has an emotional involvement in her home which prior hearings have demonstrated has impeded the ordinary process of Chapter 7 case administration with respect to the subject property. This is not to in any manner denigrate Ms. Morris' feelings, but it is an accurate statement of the record in this case. However, the matter before the Court on

February 22, 2008 was whether the Court should impose remedies against Ms. Morris for her failure to comply with an order of the Court, and the record established at that hearing did not provide a basis for the imposition of any remedy with respect to the Motion. That aside, it is necessary to establish definitive guidelines by which the Trustee and the professional engaged by him may perform the obligations imposed upon them by the Bankruptcy Code to administer this Chapter 7 case.

Ms. Morris stated at the hearing that she does not have a working answering machine. Thus, in order for the realtor to effectively contact her, it is necessary that she be available at the time the realtor calls. For any number of reasons, she may not be. Ms. Morris promised the Court that she would fully cooperate with the realtor with respect to any appointment which he scheduled, and the Court takes her at her word. In order to take all of the guesswork out of the procedure by which the realtor engaged by the Trustee can obtain access to the debtor's residence for the purposes of "showing" that property to prospective purchasers, the Court enters the following order.

IT IS ORDERED as follows:

1. Every request for access to the debtor's residence for "showing" the property to a prospective purchaser by the realtor shall be made by a letter by the realtor – dated with the date of its signing by the realtor and signed by the realtor – sent to the debtor's residence, with a copy of that letter provided by mail to the Trustee and to Attorney Patricia S. Beecher. The letter shall state the definite date and time at which the realtor proposes to show the real estate to a prospective purchaser. The letter shall be deposited in the United States mail, with sufficient first class postage affixed, to the debtor's home address, on the date stated in the letter as its date of signing. That date shall be not less than seven days prior to the date stated in the letter for the "showing" of the property.

2. In the event that the date of the "showing" stated in the letter cannot be

reasonably accommodated by the debtor, the debtor shall – not later than three days prior to the date of the scheduled “showing” – call her attorney Patricia S. Beecher and Trustee DuBois (at 219-762-5574) to advise both of them of that fact, including in the communication to both Attorney Beecher and Trustee DuBois specific reasons why the date of “showing” cannot be accommodated. In her communication to both Attorney Beecher and Attorney DuBois, the debtor shall state three alternative dates at which the debtor will be available at any time during those dates to allow for the “showing” of the property.

3. The realtor employed by the Trustee, as a professional employed by the Court with duties to the Court, shall retain a copy of every letter provided to the debtor under the foregoing procedures.

4. The Trustee’s Motion with respect to which the hearing on February 22, 2008 was conducted will pend generally, subject to the Trustee’s motion for hearing with respect to that Motion in the event of the debtor’s non-compliance with this order.

5. The procedures established by this order constitute a specific modification to the order entered on August 18, 2006 as to the procedure to be employed for the “showing” of the debtor’s property to prospective purchasers.

Dated at Hammond, Indiana on February 28, 2008.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee